

## **BILL ANALYSIS**

Senate Research Center  
81R6955 MCK-F

S.B. 786  
By: Nelson  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Department of Family and Protective Services (DFPS) can currently seek removal of an alleged perpetrator of child abuse, but is often reluctant to do so because of the low threshold for ensuring the safety of the child. This bill will encourage DFPS to remove an alleged perpetrator from a home before removing the child in abuse or neglect cases, and ensure that active consideration is given to the safety of all children in a home during an abuse or neglect investigation.

As proposed, S.B. 786 authorizes the court in certain suits to issue a restraining order for the removal of an alleged perpetrator from the residence of a child. S.B. 786 also requires the court to consider whether the child's household includes a person who has abused or neglected another child in a manner that has caused serious injury to or the death of the other child, or sexually abused another child when considering whether to remove an alleged perpetrator from the residence of the child.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 262.1015(b), Family Code, to authorize a court to issue a temporary restraining order in a suit by the Department of Family and Protective Services (DFPS) for the removal of an alleged perpetrator under Subsection (a) (relating to a petition for the removal of an alleged perpetrator from the residence of a child) if DFPS's petition states facts sufficient to satisfy the court of certain conditions, including that the parent or other adult with whom the child will continue to reside in the child's home is likely to make a reasonable effort to monitor the residence; and report to DFPS and the appropriate law enforcement agency any attempt by the alleged perpetrator to return to the residence. Makes nonsubstantive changes.

SECTION 2. Amends Section 262.102(b), Family Code, to require the court, in determining whether the circumstances described by Subsections (a)(1) (relating to a court determination that there is an immediate danger to a child) and (a)(2) (relating to a court determination that there is no time for a full adversary hearing) exist, to consider whether the child's household includes a person who has abused or neglected another child in a manner that caused serious injury to or the death of the other child; or sexually abused another child. Deletes existing text authorizing the court, in determining whether there is an immediate danger to the physical health or safety of the child, to consider certain information.

SECTION 3. Makes application of Section 262.1015(b), Family Code, as amended by this Act prospective.

SECTION 4. Effective date: September 1, 2009.